



STATE OF NEW JERSEY

**FINAL ADMINISTRATIVE
ACTION
OF THE
CIVIL SERVICE COMMISSION**

In the Matter of Louis Byrd, Parole
Office Recruit (S1000U), New Jersey
State Parole Board

CSC Docket No. 2019-957

List Removal Appeal

ISSUED: MAY 31, 2019 (CSM)

Louis Byrd appeals the removal of his name from the Parole Officer Recruit (S1000U), New Jersey State Parole Board eligible list on the basis of an unsatisfactory background report.

By way of background, the appellant took the open competitive examination for the subject title, achieved a passing score and his name was certified to the appointing authority on March 26, 2018. In disposing of the certification, the appointing authority requested the removal of the appellant's name on the basis of an unsatisfactory background report. Specifically, the appointing authority indicated that the appellant was arrested on March 29, 1996, pled guilty to the charges, and his record was expunged in 2006. It also indicated that the appellant admitted to being fired from Medco Health Solutions in September 2002 as a result of a physical confrontation with a co-worker. Additionally, the appointing authority stated that the appellant had an adverse employment record as a County Correction Officer with Burlington County. Specifically, it noted that he received letters of reprimand in July 2008, January 2010, June 2011 and August 2012 for chronic absenteeism, abuse of sick time, and failing to report for duty, was counseled in November 2009, July 2010 and August 2012 for violations of time clock and late returning, was suspended for 60 days in June 2011 for incompetency, inefficiency or failure to perform duties, conduct unbecoming a public employee other sufficient cause and violation of policies and procedures and was suspended for one day in August 2016.

On appeal to the Civil Service Commission (Commission), the appellant states that he takes full responsibility for the mistakes he has made and they have not hindered his career as a County Correction Officer with Burlington County. In this regard, he states that his scheduled to become his departments next Range Instructor. Therefore, the appellant requests that his name be restored to the list.

Although provided the opportunity, the appointing authority and the appellant did not provide any additional information for the Commission to review in this matter.

CONCLUSION

N.J.S.A. 11A:4-11 and *N.J.A.C.* 4A:4-4.7(a)4 provide that an eligible's name may be removed from an eligible list when an eligible has a criminal record which includes a conviction for a crime which adversely relates to the employment sought. The following factors may be considered in such determination:

- a. Nature and seriousness of the crime;
- b. Circumstances under which the crime occurred;
- c. Date of the crime and age of the eligible when the crime was committed;
- d. Whether the crime was an isolated event; and
- e. Evidence of rehabilitation.

The presentation to an appointing authority of a pardon or expungement shall prohibit an appointing authority from rejecting an eligible based on such criminal conviction, except for law enforcement, correction officer, juvenile detention officer, firefighter or judiciary titles and other titles as the Chairperson of the Civil Service Commission or designee may determine. It is noted that the Appellate Division of the Superior Court remanded the matter of a candidate's removal from a Police Officer eligible list to consider whether the candidate's arrest adversely related to the employment sought based on the criteria enumerated in *N.J.S.A.* 11A:4-11. See *Tharpe v. City of Newark Police Department*, 261 *N.J. Super.* 401 (App. Div. 1992).

N.J.A.C. 4A:4-4.7(a)1, in conjunction with *N.J.A.C.* 4A:4-6.1(a)9, allows the removal of an eligible's name from an eligible list for other sufficient reasons. Removal for other sufficient reasons includes, but is not limited to, a consideration that based on a candidate's background and recognizing the nature of the position at issue, a person should not be eligible for appointment. *N.J.A.C.* 4A:4-4.7(a)1, in conjunction with *N.J.A.C.* 4A:4-6.1(a)7, allows the removal an eligible's name from an eligible list who has a prior employment history which relates adversely to the position sought.

In *In the Matter of J.B.*, 386 N.J. Super. 512 (App. Div. 2006), the Appellate Division remanded a list removal appeal for further consideration of the impact of the appellant's expunged arrest on his suitability for a position as a Police Officer. Noting that the former Merit System Board relied heavily on the lack of evidence of rehabilitation since the time of arrest, the Appellate Division found that "[t]he equivalent of 'evidence of rehabilitation' is supplied in these circumstances by the foundation for an expungement. See N.J.S.A. 2C:52-3 and N.J.S.A. 2C:52-8. In this case, other than his arrest and guilty plea in March 1996 and the fact that his record was expunged in July 2006, there is nothing in the record that indicates that the appellant had any other adverse interactions with law enforcement for 23 years. As such, this basis alone would not provide a sufficient basis on which to remove his name from the list.

However, there is an ample basis on which to remove his name from the subject list on the basis of an adverse employment record. In this case, the appellant was fired in 2002 for a physical confrontation with a co-worker, received a 60-day suspension in 2011 for incompetency, inefficiency or failure to perform duties, conduct unbecoming a public employee other sufficient cause and violation of policies and procedures and was suspended for one day in August 2016. Additionally, he received multiple minor disciplinary actions from July 2008 to August 2016. While the appellant takes full responsibility for his actions, it cannot be ignored that his last minor disciplinary action occurred in August 2016, just two months after the closing date for the subject examination. This recent violation, in conjunction with his multiple prior adverse employment incidents, is indicative of the appellant's exercise of poor judgment, which is not conducive to the performance of duties of a Parole Officer Recruit. In this regard, the Commission notes that Parole Officer Recruits, like Police Officers, hold highly visible and sensitive positions within the community, and the standard for an applicant includes good character and an image of utmost confidence and trust. See *Moorestown v. Armstrong*, 89 N.J. Super. 560 (App. Div. 1965), *cert. denied*, 47 N.J. 80 (1966). The public expects Parole Officers to present a personal background that exhibits respect for the law and the rules. Accordingly, given the totality of the circumstances, the appointing authority has presented sufficient cause to remove the appellant's name from the Parole Officer Recruit (S1000U), New Jersey State Parole Board eligible list.

ORDER

Therefore, it is ordered that this appeal be denied.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON THE
22nd DAY OF MAY, 2019

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